

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine White	Team: Squad #5	CCRB Case #: 202003480	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/12/2020 2:24 PM	Location of Incident: § 87(2)(b)	Precinct: 121	18 Mo. SOL 11/12/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 05/12/2020 2:44 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/22/2020 9:45 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Adam Aliotta	18614	961609	121 PCT
2. POM Matthew Shostak	18810	962102	121 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Shostak	Abuse: Police Officer Matthew Shostak damaged § 87(2)(b) property.	§ 87(2)(b)
B.POM Matthew Shostak	Discourtesy: Police Officer Matthew Shostak spoke discourteously to § 87(2)(b)	§ 87(2)(b)
C.POM Matthew Shostak	Off. Language: Police Officer Matthew Shostak made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(g), § 87(4-b)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On May 12, 2020, § 87(2)(b) and § 87(2)(b) filed this complaint together by phone with IAB (BR01), generating original log § 87(2)(b). The CCRB received this case on May 22, 2020.

On May 12, 2020, at approximately 2:24 p.m., § 87(2)(b) was at the residence of her sister, § 87(2)(b) at the basement level of § 87(2)(b) in Staten Island. § 87(2)(b) had a verbal dispute with her neighbor, who called 911 (BR02). Police Officers Matthew Shostak and Adam Aliotta, both then assigned to the 121st Precinct, responded to the location. PO Shostak allegedly forced open § 87(2)(b) front door, damaging the door and its frame (**Allegation A: Abuse of Authority**, § 87(2)(g)). PO Shostak said to § 87(2)(b) “You’re not fucking gonna be yelling anymore! Stop fucking yelling!” (**Allegation B: Discourtesy**, § 87(2)(g)). PO Shostak also told § 87(2)(b) “Fix your door, sweetheart” (**Allegation C: Offensive Language**, § 87(2)(g)). § 87(2)(g), § 87(4-b)

The investigation obtained a cellphone video of the incident from § 87(2)(b) (BR06, summarized at BR07). § 87(2)(b) also provided three additional clips, but they were all merely shorter portions of the original longer video (BR03-05). § 87(2)(g)

PO Shostak has since been reassigned to the Brooklyn Special Victims Squad.

On July 9, 2020, this case was reassigned from Inv. Andrew Ridge to the undersigned after Inv. Ridge’s departure from the CCRB.

Findings and Recommendations

Allegation (A) Property damaged: Police Officer Matthew Shostak damaged § 87(2)(b) property.

It is undisputed that PO Shostak knocked on § 87(2)(b) door, and that the door had physical damage. § 87(2)(g). It is undisputed that the officers denied during the incident that they had broken the door open or otherwise damaged it.

§ 87(2)(b) testified in a sworn interview (BR09). § 87(2)(b) provided testimony when she filed the complaint with IAB (BR17), in an initial phone statement (BR18), and in a sworn interview (BR10). Their testimonies were generally consistent. They both insisted that there was no damage to the door prior to the incident, and that it was in good working order. § 87(2)(b) noted that the doorknob lock was engaged but the deadbolt was not. They had been cooking and cleaning prior to the officers’ arrival, and they were listening to loud music on a speaker. They did not become aware of the officers until they suddenly heard a loud “boom.” At that time, § 87(2)(b) was sweeping near the door, and § 87(2)(b) was in the rear of the apartment near the bathroom. They both turned to see that the front door had swung open into the apartment, and that PO Shostak and PO Aliotta were standing outside the doorway.

§ 87(2)(b) testified that the doorframe was “shattered” up to about one foot above and below the lock, and that there were resulting debris on the floor. In addition, the lock plate on the doorframe was “hanging off” the frame by its screws. In her initial phone statement, § 87(2)(b) said that the whole door “came apart, and that the “middle piece” of the doorframe broke off and flew across the room. She did not describe the damage during her sworn interview.

§ 87(2)(b) and § 87(2)(b) sent one photograph of the damage to the door to IAB (**BR08**). The photograph is taken from inside the apartment, and it appears to show damage and splintering to the wood in the portion of the doorframe opposite the lock and deadbolt. A splintered piece of wood is on the floor just to the right of the doorframe. The door is in a closed position, so the entirety of the lock mechanism is not visible. The outside of the door and doorframe also are not visible.

§ 87(2)(g) The sole cellphone clip begins with § 87(2)(b) already touching the door (**BR06**). It is unclear how much time elapsed between the time that the door opened and the time that § 87(2)(b) began filming. PO Shostak stands immediately in front of the doorway, with PO Aliotta behind him. § 87(2)(b) says, “How may I help you? Cause I called y’all the other day and y’all never came.” PO Shostak says, “I’m going to advise you to please, let’s just try to get on an even level right now.” § 87(2)(b) yells, “You just walked in my fucking door!” PO Shostak says, “What’s your name, ma’am? So I could talk to you like a person?” § 87(2)(b) refuses to provide her name. PO Shostak says, “Ok, my name’s Officer Shostak. I knocked on your door, and your door opened.” § 87(2)(b) says, “No, it’s broken.” § 87(2)(b) yells, “What? You just bust through my door! Look at my door! They just bust down my fucking door!” At 00:40, PO Aliotta says, “Will you please talk to us, ma’am?” § 87(2)(b) screams, “Oh, hell no! Do you see the door?” PO Shostak says, “The door was like that ” § 87(2)(b) says, “No, it wasn’t. We just came here, and it wasn’t like that. It’s broken.” PO Shostak says, “I’ve been knocking on your door for the past ten minutes.” § 87(2)(b) asks him to repeat what he said. PO Shostak then says, “I was knocking for like five minutes—no one’s answering.” § 87(2)(b) yells, “We had the music on!” PO Shostak says, “Which is why I knocked harder, and the door opened.”

In contradiction to § 87(2)(b) testimony, the video footage does not appear to show any debris on the ground near the doorframe, either inside or outside the apartment. In particular, the piece of splintered wood seen on the floor in the photograph (**BR08**) is clearly not present in that same location in the video footage. Beginning at 01:25, the footage also shows that the interior wood trim just to the right of the doorframe appears to be separating from the wall—the nails holding it to the wall are visible in the gap between the trim and the wall. The footage does not provide a clear view of the lock mechanism or of the interior portion of the doorframe opposite the lock.

PO Shostak recounted that (**BR11**) he and PO Aliotta first spoke to § 87(2)(b) upstairs neighbor, who claimed that § 87(2)(b) had cut off his power, and that she had been doing so periodically. PO Aliotta recalled instead (**BR12**) that the neighbor complained that § 87(2)(b) frequently played loud music. Both officers testified to seeing damage to the outside of § 87(2)(b) door when they arrived. PO Shostak only testified to seeing “wear and tear,” including chipped paint and scratches on the door frame. PO Aliotta recounted seeing much more significant damage, which he felt was consistent with the door having been “kicked in.” The door had black scuff marks and dents on its surface, the bottom of the door looked like it had been damaged by someone “kicking” it, the “doorjamb” was split on the left side of the frame by the lock, and there were “dents” on the door near the lock mechanism, where the “surface of the door had given in and pushed back.” In addition, the door was not completely latched shut. It was partially open, and PO Aliotta could see that the lock was not fully engaged. He described the door as just “sitting in place.”

Both officers testified that PO Shostak knocked on the door using his hand. They denied that he ever kicked it or struck with an object. They also both described the amount of force he used to knock on the door as normal. At most, PO Shostak noted that he knocked “a little bit harder” once no one responded to his initial attempts. They both also testified that the door suddenly swung open, and that PO Shostak did not force it open. At that point, PO Shostak saw that “chunks of

wood” and “larger fragments” were “coming off” of the doorframe inside the apartment.

§ 87(2)(g)

§ 87(2)(b) and § 87(2)(b) alleged that the front door to § 87(2)(b) home was in good working order and locked, and that PO Shostak broke the door open. PO Shostak and PO Aliotta alleged that the door was obviously damaged when they arrived, that the door’s lock was compromised, and that the door simply swung open upon normal knocking. Neither the video footage nor the photograph of the damage resolved this contradiction.

§ 87(2)(g)

Allegation (B) Discourtesy: Police Officer Matthew Shostak spoke discourteously to § 87(2)(b)

Allegation (C) Offensive Language: Police Officer Matthew Shostak made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

It is undisputed that PO Shostak used the word “fucking” while speaking to § 87(2)(b). It is also undisputed that he was the assigned “recorder” and PO Aliotta was the assigned “operator” of their vehicle.

§ 87(2)(b) testified (BR09) that, as the officers were leaving, PO Shostak said, “Stop fucking yelling at me, fix your fucking door.” § 87(2)(b) testified (BR10) that PO Shostak told § 87(2)(b) “I don’t want to talk to fucking talk to you anymore. I’m fucking leaving. Fix your fucking door.” When PO Shostak reached his car, he again said, “Fix your fucking door.”

The cellphone footage (BR06, beginning at approximately 02:50) shows § 87(2)(b) yelling at the officers through the open doorway. The officers are not visible. PO Shostak tells her, “Just please don’t turn the lights off.” § 87(2)(b) begins yelling again, and PO Shostak yells, “You’re not fucking gonna be yelling anymore! Stop fucking yelling!” The officers apparently begin walking back to their vehicle, and § 87(2)(b) and § 87(2)(b) follow him out of the apartment. By the time § 87(2)(b) gets a view of the vehicle, an officer is just getting into the front passenger seat. He is blocked from view by a tree, but he can be heard yelling just before he closes the front passenger door, “Fix the door, sweetheart!” The voice making that remark is consistent with PO Shostak’s voice.

PO Shostak initially testified that he could not recall if he used profanity during the incident. After reviewing the video footage, he confirmed that he used the word “fucking,” and testified that he used profanity due to the “heat of the moment.” PO Shostak initially denied that he called § 87(2)(b) or § 87(2)(b) “sweetheart.” PO Shostak reviewed the video footage multiple times, but he maintained that he could not hear the remark containing “sweetheart” in the video and he did not recall making any such remark.

PO Aliotta did not independently recall PO Shostak’s profane remark, but the video refreshed his recollection. PO Aliotta also testified that he was not able to hear the remark containing “sweetheart” in the footage. He did not recall PO Shostak shouting or saying anything to the women while they were getting into their vehicle, and he did not recall doing so himself.

The investigation determined that PO Shostak is the officer heard in the video footage calling § 87(2)(b) “sweetheart.” The voice is similar to his voice, and he would have been entering the

passenger side of the vehicle because he was the assigned recorder that day.

NYPD Patrol Guide Procedure 200-02 (BR15) states that NYPD members of service pledge to render services with “courtesy and civility.” Patrol Guide Procedure 203-09 (BR16) states that NYPD members of service should interact with the public in a “professional manner.” Patrol Guide Procedure 203-10 (BR19) prohibits officers from making discourteous or disrespectful remarks regarding a civilian’s gender.

PO Shostak’s explanation that he used the word “fucking” with § 87(2)(b) “in the heat of the moment” § 87(2)(g) He was still required to maintain a professional manner. His ironic and dismissive use of the word “sweetheart” § 87(2)(b) In addition, it is self-evident that PO Shostak would not have called a man “sweetheart,” and that his use of the term directly referenced § 87(2)(b) gender. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been party (BR20).
- Police Officer Matthew Shostak has been a member of the NYPD for five years and has been a subject in one CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(b) (g)
- Police Officer Adam Aliotta has been a member of the NYPD for five years and has been a subject in one CCRB complaint and two allegations, neither of which was substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of June 1, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR13).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 5

Investigator: Kw Inv. Katherine White November 19, 2021
Signature Print Title & Name Date

Squad Leader: Daniel Giansante IM Daniel Giansante November 19, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date